

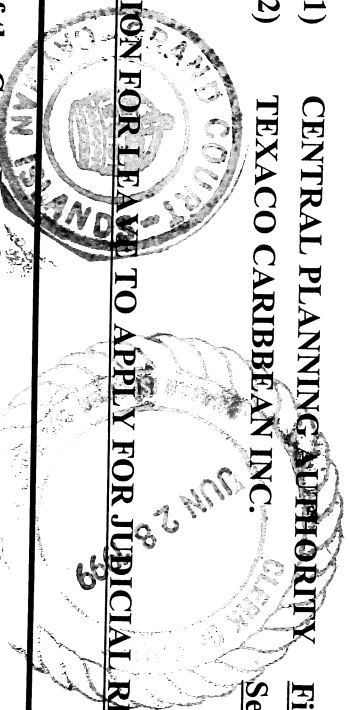
BETWEEN:

SUNSET HOUSE LTD.

Plaintiff

AND:

- 1) CENTRAL PLANNING AUTHORITY First Defendant
- 2) TEXACO CARIBBEAN INC. Second Defendant



APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of Plaintiff(s)	Sunset House Ltd. P O Box 479 G.T. Grand Cayman
Judgment, order, decision or other proceeding in respect of which relief is sought	The failure on the part of the Central Planning Authority ("CPA") to make a decision as to whether to issue an enforcement notice under Section 15(1) of the Development and Planning Law in respect of the grant of planning permission for the development of two new petroleum storage tanks on the Property at Registration Section George Town South Block 6D Parcel 12.
Relief sought	
<ol style="list-style-type: none"> 1. An Order of Mandamus directed to the CPA to determine whether to issue an Enforcement Notice in respect of the development of two new petroleum storage tanks on the Property at Registration Section George Town South Block 6D Parcel 12. 2. That all necessary and consequential directions be given. 	

<p>Name and address of Plaintiff's attorneys, or, if no attorneys acting, the address for service of the Plaintiff.</p>	<p>Bruce Campbell & Co Attorneys at Law 4th Floor, Bank of Nova Scotia Building George Town, Grand Cayman</p>
<p>Signed <i>Bruce Campbell</i> 4^o</p>	<p>Dated 28th June 1999</p>

GROUNDNS ON WHICH RELIEF IS SOUGHT

- 1) The Plaintiff is the owner of the property at Registration Section George Town South Block 6D Parcel 9. This property has a common boundary with Registration Section George Town South Block 6D, Parcel 12 which is owned by the Second Defendant.
- 2) By an application for planning permission dated 22nd November 1996, the Second Defendant applied for planning permission to build two petroleum storage tanks on the property at Registration Section George Town South Block 6D, Parcel 12 ("the Application"). The Application described the proposed petroleum storage tanks as "33,000 bar. each - 30 Ft. high and 1,018 Square Feet each".
- 3) The Second Defendant contended that it gave notice of the Application to the proprietors of adjoining properties including the Plaintiff by notices, which the Second Defendant contends were sent on 6th November 1996 but in respect of which no proof of posting has ever been produced. The notices incorrectly stated that the Application was for planning permission for the purposes of two 10,000 barrel petroleum storage tanks.

- 4) The Application was considered by the First Defendant at a meeting convened on 11th February 1997. The Plaintiff is unable to say whether the discrepancy between the Application itself and the description of the Application in the notices was brought to the attention of the First Defendant. In any event the Application was granted at that meeting subject to certain conditions, one of which was that unless the Second Respondent was specifically authorised in writing by the CPA, the development was to be carried out strictly in accordance with the approved plans which it would receive when all of the other conditions are complied with.
- 5) The Plaintiff has not seen a copy of the approved plans but assumes that the approved plans would have contained a reference to the height of the storage tanks being 30 feet. If the approved plans did not contain such a reference, the Plaintiff submits that, having applied for planning permission to build the storage tanks to a height of 30 feet, the planning permission granted to the Second Respondent was necessarily limited to permission to build the storage tanks to that height.
- 6) By a letter dated 26 January 1999 the Plaintiff brought to the attention of the First Respondent that for a storage tank to have base diameter of 70 - 72 feet and a capacity of 33,000 barrels, the height would have to be 40 - 45 feet. The Plaintiff went on to request the First Respondent to monitor the construction of the tanks to ensure that they did not exceed the 30 feet height limit. No response to that letter was received from the First Respondent.
- 7) By a letter dated 8 March 1999 the Plaintiff's attorneys, Bruce Campbell & Co, wrote to the First Respondent. By that letter Bruce Campbell & Co informed the First Defendant that construction of the first bulk fuel storage tank had been all but completed and that it had a height of 40 feet. Bruce Campbell & Co sought an

explanation as to why no steps were taken by the First Defendant to ensure that the construction did not exceed the planning permission granted. Bruce Campbell & Co also sought confirmation as to what steps the First Defendant intended to take to ensure that a similar breach of planning permission was not committed in respect of the second tank.

8) By a letter dated 15 March 1999 Mr. Nicholas Popovich responded to Bruce Campbell & Co's letter of 8 March 1999 indicating that it had been forwarded to the Legal Department in order to solicit their advice. He also indicated that the First Defendant would endeavour to contact Bruce Campbell & Co as soon as a response had been received.

9) By a letter dated 30 March 1999 Bruce Campbell & Co again wrote to the First Defendant asking to be informed as to when the First Defendant expected to hear from the Legal Department. No response to that letter was received.

10) By further letter dated 20 April 1999 Bruce Campbell & Co again wrote to the First Defendant asking when it could expect to hear from the Legal Department. No response to that letter was received.

11) On 11 May 1999 Bruce Campbell & Co telephoned the First Defendant and spoke to Mr. Corcoran, the Director of Planning. In that conversation, Mr. Corcoran confirmed that no definitive advice had been received by the First Defendant from Legal Department and he undertook to look into the matter and to contact Bruce Campbell & Co and notify them of the First Defendant's position in the matter. No further contact was received by Bruce Campbell & Co following that telephone conversation.

- 12) By a letter dated 9 June 1999 Bruce Campbell & Co again wrote to the First Defendant informing the First Defendant that unless they received, within 7 days, formal confirmation that the Planning Department intend to issued an Enforcement Notice, they were instructed to commence judicial review proceedings to compel the Department to do so.
- 13) By a letter dated 10 June 1999 the First Defendant responded to Bruce Campbell & Co indicating that Bruce Campbell & Co's letter of 9 June 1999 had been passed to the Crown Counsel and that any future correspondence was to be addressed to Crown Counsel.
- 14) The Plaintiff submits that the First Defendant has a legal duty to convene a meeting and to consider whether to issue an Enforcement Notice. By their conduct they have evinced an intention not to do so. Accordingly the Plaintiff seeks an Order of Mandamus to compel the First Defendant to convene such a meeting.

REQUEST FOR A HEARING

The Plaintiff respectfully requests a hearing of its application.

Time Estimate of this application is 15 minutes.